THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26566 OF 2006

Dated 22nd March 2007

Between:

Kurre Mallaiah

…Petitioner

and

Deputy Registrar of Co-operative Societies,
Warangal & others.

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26566 OF 2006

O R D E R:

The petitioner was elected as President of Primary Agricultural Cooperative Society, Narmetta, in October 2005, for a term of 5 years. The Managing Committee consists of 13 directors. 9 directors have delivered a notice of no confidence motion, to the Deputy Registrar of Cooperative Societies, the 1st respondent herein, expressing their lack of confidence in the petitioner. As required under Section 34A of A.P. Cooperative Societies Act, 1964 (for short "the Act"), the 1st respondent issued notice of no confidence motion on 8.12.2006, fixing the date of meeting as 27.12.2006. The petitioner challenges the same on several grounds. It is urged that the notice dated 8.12.2006, which was served upon the petitioner on 13.12.2006, was defective, inasmuch as the name of one Gollepalli Kumaraswamy, who was no more a director, was included, and thereafter, a notice with correct

description, *viz*, Gollepalli Murali, was served upon him on 14.12.2006. It is stated that either way, 15 clear days of notice is contemplated under sub-section (3) of Section 34A of the Act. Certain other contentions are also urged.

A counter affidavit is filed on behalf of the respondents 2 to 10. They stated that all of them received notice of no confidence motion, on 12.12.2006. The clear 15 days was available for holding the meeting. They deny the contention of the petitioner that the notice was served on 13.12.2006. According to them, the petitioner was served on 11.12.2006.

Heard Sri Manik Rao, learned counsel for the petitioner, learned Government Pleader for Cooperation, and Sri S.Laxma Reddy, learned counsel for respondents 2 to 10.

The only question that arises for consideration, in this writ petition is, as to whether the 1st respondent complied with sub-section (3) of Section 34A of the Act. The fact that the notice of no confidence motion was issued, by requisite number of directors, is not seriously disputed. The contention of the petitioner that he received the notice, for the first time on 13.12.2006, though denied by the respondent, is not proved to be incorrect. If the time between the date on which the notice served on the petitioner, and the date on which meeting is proposed to be conducted, is calculated, it falls short by one day. Inasmuch as the exercise is going to entail in serious consequences from the point of view of the petitioner, strict compliance needs to be ensured. In ***D.MADHAVA REDDY v. COLLECTOR (CO-OPERATION), WARANGAL***[1], this court held that maintenance of 15 clear days of gap, between the date of service of notice and date of

meeting, is mandatory. The notice is otherwise in order. It can be treated as basis for holding a meeting, by providing 15 clear days of notice. Instead of repeating the exercise, once again, the meeting can be conducted, on the basis of the same notice, on a day, which accords sub-section (3) of Section 34A of the Act. To avoid further complications in the matter, the date of meeting can be fixed as 07.4.2007.

Hence, the writ petition is disposed of, directing that the 1st respondent shall convene the meeting of General Body on 07.4.2007, to consider the motion of no confidence, against the petitioner, in pursuance of the notice dated 8.12.2006. The 1st respondent shall take steps, to serve notice on such of the directors, who did not figure as parties to the writ petition. They shall be deemed to have been served with notice. There shall be no order as to costs.

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22nd March 2007

Note: Issue C.C. in two days.

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[1] 2000(1) ALD 495